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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Aging, Department on[17]

Replace Analysis

Replace Chapter 2

Agriculture and Land Stewardship Department[21]

Replace Analysis

Replace Chapter 40

Economic Development Authority[261]

Replace Analysis

Replace Chapter 23

Replace Chapters 173 and 174

Iowa Finance Authority[265]

Replace Chapter 11

AGING, DEPARTMENT ON[17]

Prior to 5/20/87, see Commission on the Aging[20]
Delay: Effective date (June 24, 1987) of Chapters 1 to 18 delayed 70 days pursuant to Iowa Code section 17A.4(5) by the
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[Prior to 1/27/10, see Elder Affairs Department[321]]

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CHAPTER 2
DEPARTMENT ON AGING
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 2]

17—2.1(231) Mission statement. The mission of the department on aging is to develop a comprehensive, coordinated and cost-effective system of long-term living and community support services that help individuals maintain health and independence in their homes and communities.

[ARC 8489B, IAB 1/27/10, effective 1/7/10; ARC 0621C, IAB 3/6/13, effective 4/10/13]

17—2.2(231) Definitions. Words and phrases as used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—2.3(231) Department established.

2.3(1) Authority. The Iowa department on aging is established by Iowa Code chapter 231 and is the sole state agency responsible for administration of the federal Act.

2.3(2) Contact information. General correspondence, inquiries, requests for information or assistance, complaints, or petitions may be sent to or obtained from the following sources:

a. By mail addressed to: Director, Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319;

b. By telephone at (515)725-3333 or 1-800-532-3213; or

c. From the Web site at www.iowaaging.gov.

2.3(3) Business hours. Business hours for the department are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays established by the state executive council.

[ARC 8489B, IAB 1/27/10, effective 1/7/10; ARC 2048C, IAB 6/24/15, effective 7/29/15]

17—2.4(231) Director. Rescinded ARC 2048C, IAB 6/24/15, effective 7/29/15.

17—2.5(231) Organizational units of the department. The department's activities are performed by employees within the office of the director and three divisions. Grants will be managed by the appropriate division, dependent upon the source and intended use of funds.

2.5(1) Office of the director. The office of the director may be comprised of the director, the assistant director, the state long-term care ombudsman, the policy coordinator, the public information officer, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) Division of programs and administration. The responsibilities of the division of programs and administration include the development and operation of home- and community-based programs, development of program and operational budgets, and accounting and administrative control of appropriation expenditures.

2.5(3) Division of policy and planning. The responsibilities of the division of policy and planning include providing leadership and direction for the integration of policy development and ensuring that policies are consistent with department goals and results.

2.5(4) Division of elder rights. The responsibilities of the division of elder rights include development, administration, and operation of the program and budget for the office of the state long-term care ombudsman and other programs impacting elder rights.

[ARC 8489B, IAB 1/27/10, effective 1/7/10; ARC 0621C, IAB 3/6/13, effective 4/10/13; ARC 2048C, IAB 6/24/15, effective 7/29/15]

17—2.6(231) Staffing. Rescinded ARC 2048C, IAB 6/24/15, effective 7/29/15.

17—2.7(231) Discrimination. Rescinded ARC 2048C, IAB 6/24/15, effective 7/29/15.

17—2.8(231) Affirmative action plans. Rescinded ARC 2048C, IAB 6/24/15, effective 7/29/15.

17—2.9(231) Department complaint and appeal procedures.

2.9(1) *Aggrieved party identified.* An aggrieved party is any agency, organization, or individual that alleges that the party's rights have been denied or that services provided were not in compliance with regulations or were substandard because of an action of the department, the commission on aging, an AAA or an AAA subcontractor.

2.9(2) *Complaints or appeals to the department from the AAA level.*

a. Except in cases where an AAA is acting in its capacity as a Medicaid provider, complaints at the AAA level by any aggrieved party shall be heard first by the AAA using the AAA's procedures.

b. Local complaint procedures of an AAA or an AAA subcontractor shall be exhausted before the department on aging is contacted.

2.9(3) *Requests for an informal review or a contested case hearing.*

a. Informal review. An aggrieved party or a party appealing an AAA-level decision has 30 calendar days from receipt of written notice of action from the AAA or the department to request an informal review by the department or a contested case hearing.

(1) Any person who desires to pursue an informal settlement of any complaint may request a meeting with appropriate department staff. The request shall be in writing and shall be delivered to the Director, Department on Aging, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

(2) The request must contain the subject matter(s) of the complaint and an explanation of all steps taken to resolve the matter prior to requesting an informal review.

(3) Upon receipt of the request for informal review, all formal contested case proceedings, if begun, are stayed.

(4) The department may, as a result of the informal review, negotiate a settlement of the complaint or, if appropriate, may send the matter back to the AAA for reconsideration.

(5) Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement of facts.

(6) When signed by the parties to a controversy, a proposed settlement shall represent final disposition of the matter in place of contested case proceedings, which shall be terminated.

(7) If the parties are unable to reach agreement during the informal review, the matter may, if requested, be handled by the department as a request for a contested case proceeding under Iowa Code chapter 17A and 17—Chapter 13.

(8) A proposed settlement which is not accepted or signed by the parties shall not be admitted as evidence in the record of a contested case proceeding.

b. Contested case proceeding.

(1) Within 15 calendar days of receipt of a request for a contested case hearing, the department shall initiate a contested case proceeding under 17—Chapter 13.

(2) If the controversy is a matter that is subject to a contested case proceeding under Iowa Code chapter 17A, parties may request a contested case proceeding at the conclusion of an unresolved informal review pursuant to 17—Chapter 13.

2.9(4) *Appeal by applicants denied designation as a planning and service area.* Any applicant for designation as a planning and service area whose application is denied and who has been provided a hearing by the department on aging and has received a written appeal decision by the commission may appeal the denial to the assistant secretary of the Administration on Aging in writing within 30 calendar days of receipt of the commission's decision.

2.9(5) *Judicial review.* A party that seeks judicial review shall first exhaust all administrative remedies as follows:

a. A party shall appeal the decision of the administrative law judge as provided in subrule 2.9(4) and receive a decision from the commission as provided in subrule 2.9(4).

b. Petition for judicial review of the commission's decision shall be filed within 30 calendar days after the decision is issued.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—2.10(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

These rules are intended to implement Iowa Code chapter 231.

[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]¹

[Filed emergency 8/20/87—published 9/9/87, effective 9/2/87]

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[Filed 2/1/91, Notice 11/28/90—published 2/20/91, effective 3/27/91]

[Filed 5/28/97, Notice 4/23/97—published 6/18/97, effective 7/23/97]

[Filed 2/21/06, Notice 11/23/05—published 3/15/06, effective 5/1/06]

[Filed 12/28/07, Notice 9/12/07—published 1/30/08, effective 3/5/08]

[Filed Emergency ARC 8489B, IAB 1/27/10, effective 1/7/10]

[Filed ARC 0621C (Notice ARC 0506C, IAB 12/12/12), IAB 3/6/13, effective 4/10/13]

[Filed ARC 2048C (Notice ARC 1898C, IAB 3/4/15), IAB 6/24/15, effective 7/29/15]

¹ Effective date of Ch 2 delayed 70 days by the Administrative Rules Review Committee.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 7/27/88, Agriculture Department[30]]
Rules under this Department “umbrella” also include
Agricultural Development Authority[25] and Soil Conservation Division[27]

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CHAPTER 40
AGRICULTURAL SEEDS

[Prior to 7/27/88, see Agriculture Department 30—Ch 5]

21—40.1(199) Agricultural seeds. The term “agricultural seeds” shall mean, in addition to those defined as such in Iowa Code subsection 199.1(2), all such seeds listed in 7 C.F.R., Section 201.2(h), revised as of January 1, 1982, with the following exceptions:

- Alfilaria-Erodium cicutarium (L).
- Bluegrass, annual-Poa annua L.
- Chess, soft-Bromus mollis L.
- Hemp-Cannabis sativa L.
- Johnson grass-Sorghum halepense (L).
- Mustard-Brassica juncea (L).
- Mustard-black-Brassica nigra.
- Rape, bird-Brassica campestris L.
- Rape, turnip-Brassica campestris vars.
- Sorghum alnum-Sorghum alnum.

21—40.2(199) Seed testing. The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agricultural and vegetable seeds and the tolerances to be followed in the administration of this Act shall be those adopted by the Association of Official Seed Analysts, RULES FOR TESTING SEEDS, Vol. 6, Number 2 (1981).

21—40.3(199) Labeling. Agricultural and vegetable seeds in package or wrapped form shall be labeled in accordance with Iowa Code section 189.9(1). In addition, labeling requirements appearing in Title 7, C.F.R., Subchapter K, Part 201, Sections 201.8 through and including 201.36(c), revised as of January 1, 1982, are hereby adopted by this reference and shall be the labeling requirements for agricultural and vegetable seeds in Iowa.

21—40.4 and 40.5 Reserved.

21—40.6(199) Classes and sources of certified seed.

40.6(1) *Terms defined.*

a. Foundation seed is a class of certified seed which is the progeny of breeder or foundation seed handled to maintain specific genetic purity and identity. Production must be acceptable to the certifying agency.

b. Registered seed is a class of certified seed which is the progeny of breeder or foundation seed handled under procedures acceptable to the certifying agency to maintain satisfactory genetic purity and identity.

c. Certified seed is a class of certified seed which is the progeny of breeder, foundation registered seed so handled as to maintain satisfactory genetic purity and identity and which has been acceptable to the certifying agency.

d. “Inbred line” means a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

40.6(2) Reserved.

21—40.7(199) Labeling of seeds with secondary noxious weeds. In addition to the labeling requirements for all agricultural seeds, such seeds containing secondary noxious weeds shall contain on their labels, the following information:

The name and approximate number of each kind of secondary noxious weed seed per pound in groups 1, 2, 3 and 4 below, when present singly or collectively in excess of:

1. Eighty seeds or bulblets per pound of *Agrostis* species, *Poa* species, Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike and white clover, reed canary grass and other agricultural seeds of similar size and weight or mixtures with this group.

2. Forty-eight seeds or bulblets per pound of rye grass, meadow fescue, foxtail millet, alfalfa, red clover, sweet clover, lespedeza, smooth brome, crimson clover, *Brassica* species, flax, *Agropyron* species and other agricultural seeds of similar size and weight or mixtures within this group or of this group with 1.

3. Sixteen seeds or bulblets per pound of proso, Sudan grass and other agricultural seeds of similar size and weight or mixtures not specified in 1, 2 or 4.

4. Five seeds or bulblets per pound of wheat, oats, rye, barley, buckwheat, sorghum (except Sudan grass), vetches, soybeans and other agricultural seeds of a size and weight similar to or greater than those within this group.

All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this chapter.

21—40.8(199) Germination standards for vegetable seeds. The following standards for the germination of vegetable seeds are hereby adopted:

	Percent		Percent
Artichoke	60	Beet.	65
Asparagus	70	Broadbean	75
Asparagus bean.	75	Broccoli.	75
Bean, garden.	70	Brussels sprouts	70
Bean, lima	70	Cabbage.	75
Bean, runner.	75	Leek	60
Cantaloupe (See Muskmelon)		Lettuce	80
Cardoon	60	Muskmelon	75
Carrot	55	Mustard, India	75
Cauliflower.	75	Mustard, spinach	75
Celeriac	55	Okra	50
Celery	55	Onion	70
Chard, Swiss.	65	Onion, Welsh	70
Chicory	65	Pak-choi	75
Chinese cabbage.	75	Parsley.	60
Chives	50	Parsnip	60
Collards	80	Pea	80
Corn, sweet	75	Pepper	55
Corn salad	70	Pumpkin	75
Cowpea	75	Radish	75
Cress, garden	75	Rhubarb.	60
Cress, upland	60	Rutabaga	75
Cress, water	40	Salsify	75
Cucumber.	80	Soybean.	75
Eggplant.	60	Spinach, New Zealand.	40
Endive	70	Spinach	60
Kale.	75	Squash.	75
Kohlrabi.	75	Tomato	50
Tomato, husk	50	Turnip	80
Watermelon	70		

21—40.9(199) White sweet clover. Sweet clover seed containing more than 5 percent of yellow sweet clover seed (more than 1.25 percent mottled seeds) must not be labeled white sweet clover. Such seed must be labeled sweet clover or as a mixture.

21—40.10(199) Labeling of conditioned seed distributed to wholesalers. Labeling of seed supplied to a wholesaler whose predominate business is to supply seed to other distributors rather than to consumers of seed, may be by invoice if each bag or other container is clearly identified by a lot number stenciled

on the container or if the seed is in bulk. Each bag or container that does not carry a stenciled lot number must carry complete labeling.

21—40.11(199) Seeds for sprouting. The following information shall be indicated on all labels of seeds sold for sprouting in health food stores or other outlets:

1. Commonly accepted name of kind,
2. Lot number,
3. Percentage by weight of the pure seed, crop seeds, inert matter and weed seeds if required,
4. Percentage of germination, and
5. The calendar month and year the test was completed to determine such percentage.

21—40.12(199) Relabeling. The following information shall appear on a label for seeds relabeled in their original containers:

40.12(1) The calendar month and year the test was completed to determine such percentage of germination, and

40.12(2) The identity of the labeling person, if different from original labeler.

21—40.13(199) Hermetically sealed seed. The following standards, requirements and conditions must be met before seed is considered to be hermetically sealed:

40.13(1) The seed was packaged within nine months after harvest.

40.13(2) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F., with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration or WVP is measured by the standards of the U. S. Bureau of Standards as:

gm. H₂O/24 hr./100sw. in./100°F./90% RH V. .0% RH.

40.13(3) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

<u>Agricultural seeds</u>	<u>Percent</u>	<u>Vegetable seeds</u>	<u>Percent</u>
Beet, field.	7.5	Corn, sweet	8.0
Beet, sugar	7.5	Cucumber	6.0
Bluegrass, Kentucky	6.0	Eggplant	6.0
Clover, crimson.	8.0	Kale	5.0
Fescue, red	8.0	Kohlrabi	5.0
Ryegrass, annual	8.0	Leek	6.5
Ryegrass, perennial	8.0	Lettuce	5.5
All others	6.0	Muskmelon	6.0
		Mustard, India	5.0
<u>Vegetable seeds</u>	<u>Percent</u>	Onion	6.5
Bean, garden.	7.0	Onion, Welsh	6.5
Bean, lima	7.0	Parsley	6.5
Beet	7.5	Parsnip	6.0
Broccoli	5.0	Pea	7.0
Brussel sprouts	5.0	Pepper	4.5
Cabbage	5.0	Pumpkin	6.0
Carrot	7.0	Radish	5.0
Cauliflower.	5.0	Rutabaga	5.0
Celeriac	7.0	Spinach	8.0
Celery	7.0	Squash	6.0
Chard, Swiss.	7.5	Tomato	5.0
Chinese cabbage	5.0	Turnip	5.0
Chives	6.5	Watermelon	6.5
Collards	5.0	All others	6.0

40.13(4) The container is conspicuously labeled in not less than 8-point type to indicate:

- a. That the container is hermetically sealed,
- b. That the seed has been preconditioned as to moisture content, and

c. The calendar month and year in which the germination test was completed.

40.13(5) The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in Title 7 C.F.R., Section 201.31, revised as of January 1, 1982.

21—40.14(199) Certification of seed and potatoes. The Iowa Crop Improvement Association is the duly constituted state authority and state association recognized by the secretary to certify agricultural seed, including seed potatoes, in Iowa.

21—40.15(199) Federal regulations adopted. Title 7, C.F.R., Subchapter K—Federal Seed Act—Parts 201, 202 revised as of January 1, 1982, and the Federal Seed Act, 7 U.S.C., Section 1551 et seq., amended as of December 22, 1981, are hereby adopted by this reference in their entirety.

21—40.16(199) Seed libraries. A qualified seed library may be a library district formed under Iowa Code section 336.2, a library board functioning under Iowa Code section 392.5, or an Iowa food bank or Iowa emergency feeding organization recognized by the Iowa department of revenue. A qualified seed library is subject to permitting by the department, but is not subject to labeling, testing and fees for giving, distributing or exchanging agricultural seed as long as all of the following apply:

1. The exchanges or distributions are made at a single location and no money is exchanged;
2. All seed is intended for planting in Iowa;
3. Individuals receive two pounds or less of seed annually;
4. The seed has not been treated with pesticide;
5. Patented, protected or propriety varieties of seed are used or included in the qualified seed library only with the permission of the patent or certificate holder, developer or owner of the intellectual property associated with the variety;
6. The certified seed status is not misused or misrepresented; and
7. The seed has not been placed under a stop sale order by the department or any other regulatory agency.

[ARC 2041C, IAB 6/24/15, effective 7/29/15]

These rules are intended to implement Iowa Code chapter 199.

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ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

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261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific activities, projects or programs assisted with CDBG funds.

“*Adaptive reuse*” means conversion of an existing building or structure from nonresidential use to residential use.

“*Annual action plan*” means the annual plan required and approved by the U.S. Department of Housing and Urban Development that outlines the state’s processes and procedures for distribution of CDBG funds. The annual action plan is an annual update to the state’s CDBG consolidated plan. The federal requirements for an annual action plan can be found at http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance/state_guidelines.pdf. The annual action plan can be found on the authority’s CDBG Web site.

“*Annual allocation*” means the annual amount HUD allocates to the state of Iowa for CDBG activities.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Career link*” means a program providing training and enhanced employment opportunities to low- and moderate-income persons.

“*CDBG*” means community development block grant.

“*Citizen participation plan*” means the plan required and approved by the U.S. Department of Housing and Urban Development that describes the state’s process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority’s CDBG Web site.

“*Consolidated plan*” means the five-year plan required and approved by the U.S. Department of Housing and Urban Development that establishes goals and objectives for the state’s CDBG program. The consolidated plan is available on the authority’s CDBG Web site.

“*EDSA*” means economic development set-aside.

“*HUD*” means the U.S. Department of Housing and Urban Development.

“*LMI*” means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

“*PFSA*” means public facilities set-aside.

“*Program income*” means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

“*Program year*” means the annual period beginning January 1 and ending December 31.

“*Recipient*” means a local government entity awarded CDBG funds under any CDBG program.

“*Subrecipient*” means a public or nonprofit entity contracting with and receiving funds from a recipient to carry out CDBG project activities.

“*Sustainable community activities*” means activities to develop viable communities while preserving precious environment and resources.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.3(15) Annual action plan. The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

23.3(1) The annual action plan will contain the following:

- a. Executive summary.
- b. Sources of federal and state funds.
- c. Statement of specific annual objectives.

- d.* Outcome measures.
- e.* Method of distribution of funds.
- f.* Allocation priorities and geographic distribution.
- g.* Annual affordable housing goals.
- h.* Homeless and other special needs.
- i.* Other actions to meet underserved community development needs.
- j.* Citizen participation in development of the plan.
- k.* Certifications required by 24 CFR 91.325 as revised December 5, 2011.
- l.* Monitoring efforts to ensure compliance.

23.3(2) The authority will follow the state's citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority's CDBG Web site for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

23.3(3) The annual action plan will be submitted to HUD by November 15 of each year or 60 days after HUD announces the annual allocation amount. Upon review and approval by HUD, the annual action plan will cover activities from January 1 to December 31 of the year following plan submittal to HUD.

23.3(4) The annual action plan will include the proposed CDBG program funding allocation, including the percentage of funds allocated for each of the CDBG programs and activities listed in rule 261—23.4(15).

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.4(15) Allocation of funds and eligible applicants.

23.4(1) *Allocation of funds.* Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities according to the annual action plan as follows:

- a.* Administration.
- b.* Technical assistance.
- c.* Housing fund.
- d.* Job creation, retention and employment enhancement fund. Job creation, retention and employment enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.
- e.* Water and sewer fund.
- f.* Community facilities fund.
- g.* Opportunities and threats fund.

23.4(2) *Eligible applicants.* All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under the CDBG program. Applicants shall not apply on behalf of eligible applicants other than themselves.

23.4(3) *Application with subrecipients.* Any eligible applicant may apply directly or on behalf of a subrecipient.

23.4(4) *Joint applications.* Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

23.4(5) *Reallocation.* Any reserved funds not used for their specified purpose within the program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.

23.4(6) *Recaptured funds.* Recaptured funds shall be available for use through the water and sewer fund, the community facilities fund, the opportunities and threats fund, the housing fund, the downtown revitalization fund, and the economic development set-aside fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and employment enhancement fund in order to respond to an immediate business need if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining

at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.5(15) Common requirements for funding. Applications for funds under any of the program-allocated funds pursuant to rule 261—23.4(15) shall meet the following minimum criteria:

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974 and as further defined in 24 CFR 570, as revised April 1, 1997.

23.5(2) Proposed activities shall address at least one of the following three objectives:

a. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.

b. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

c. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.

23.5(3) Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.

23.5(4) Applicants who have received previous CDBG awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.

23.5(5) Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.

23.5(6) To the greatest extent feasible, applications shall propose the use of CDBG funds as gap financing. Applications shall identify and describe any other sources of funding for proposed activities.

23.5(7) Applications shall include a community development and housing needs assessment.

23.5(8) Negotiation of awards. The authority may negotiate award amounts, terms and conditions prior to making any award under any program.

23.5(9) Applicants shall certify their compliance with the following:

a. The Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284) and related civil rights, fair housing and equal opportunity statutes and orders;

b. Title I of the Housing and Community Development Act of 1974;

c. Age Discrimination Act of 1975;

d. Section 504 of the Housing and Urban Development Act of 1973;

e. Section 3 of the Housing and Urban Development Act of 1968;

f. Davis-Bacon Act (40 U.S.C. 276a-5) where applicable under Section 100 of the Housing and Community Development Act of 1974;

g. Lead-Based Paint Poisoning Prevention Act;

h. 24 CFR Part 58 and the National Environmental Policy Act of 1969;

i. Uniform Relocation Assistance and Real Property Acquisition Act of 1979, Titles II and III;

j. Americans with Disabilities Act;

k. Section 102 of the Department of Housing and Urban Development Reform Act of 1989;

- l.* Contract Work Hours and Safety Act;
- m.* Copeland Anti-Kickback Act;
- n.* Fair Labor Standards Act;
- o.* Hatch Act;
- p.* Prohibition on the Use of Excessive Force and Barring Entrance;
- q.* Drug-Free Workplace Act;
- r.* Governmentwide Restriction on Lobbying;
- s.* Single Audit Act;
- t.* State of Iowa Citizen Participation Plan; and
- u.* Other relevant regulations as noted in the CDBG management guide.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.6(15) Requirements for the water and sewer and community facilities funds.

23.6(1) Restrictions on applicants.

a. An applicant shall be allowed to submit one application per year under the water and sewer fund and one application per year under the community facilities fund.

b. An eligible applicant involved in a joint application (not as the lead applicant) shall be allowed to submit a separate, individual application only if the applicant is bound by a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application and the activity proposed in the joint application is not located in the applicant's jurisdiction.

23.6(2) Grant ceilings. Maximum grant awards are as follows:

- 1. Applicants with populations of fewer than 1,000 shall apply for no more than \$300,000.
- 2. Applicants with populations of 1,000 to 2,499 shall apply for no more than \$500,000.
- 3. Applicants with populations of 2,500 to 14,999 shall apply for no more than \$600,000.
- 4. Applicants with populations of 15,000 to 49,999 shall apply for no more than \$800,000.

However, no recipient shall receive more than \$1,000 per capita based on the total population within the recipient's jurisdiction. If a county applies on behalf of one or more unincorporated communities within its jurisdiction, the \$1,000 per capita ceiling shall pertain to any project benefiting all residents of the unincorporated community or communities, not the entire unincorporated population of the county applying. Applicants shall use one of the following for population figures to determine the applicable grant ceilings: 2000 census figures, special census figures or adjusted figures based on annexation completed in accordance with statutory requirements in Iowa Code chapter 368. County populations shall be calculated for unincorporated areas only to determine applicable grant ceilings.

a. Joint applications for sewer and water projects shall be awarded no more than the cumulative joint total allowed according to the population of each jurisdiction participating in the project. For all other joint applications, an application shall be awarded no more than one and one-half times the maximum amount allowed for either of the joint applicants.

b. Applicants may apply for the maximum amount for which they are eligible under both the sewer and water fund and community facilities and services fund.

c. Applicants may apply for multiple activities under each fund for an amount up to the applicable ceilings.

23.6(3) Water and sewer fund application procedure. The authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

a. Application forms shall be available at iowagrants.gov.

b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- (1) Magnitude of need for the project.
- (2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion. Procurement of an engineer shall be considered evidence of readiness to proceed.

(4) Degree to which water and sewer fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

d. Applicants shall submit preliminary engineering reports with their full applications for drinking water projects.

e. Applicants shall submit facility plans with their full applications for wastewater projects.

f. Authority staff may consult on proposed activities with other state agencies responsible for water- and sewer-related activities and may conduct site evaluations of proposed activities.

g. Applicants selected to receive awards shall be notified by letter from the authority director by date(s) determined by the authority.

23.6(4) *Community facilities fund application procedure.* Each year, the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

a. Application forms shall be available at iowagrants.gov.

b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

(1) Magnitude of need for the project.

(2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.

(4) Degree to which community facilities and services fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

(9) Whether the project meets or exceeds the minimum building and site design criteria established by the authority to be eligible for funding.

d. Authority staff may consult on proposed activities with other state agencies responsible for community facilities and services-related activities and may conduct site evaluations of proposed activities.

e. Applicants selected to receive awards shall be notified by letter from the authority director by date(s) determined by the authority.

23.6(5) *Matching funds.* The authority may require matching funds as a contingency of an award as described in the annual action plan.

23.6(6) *Negotiation of awards.* The authority may negotiate award amounts and terms as described in the annual action plan.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.7(15) Requirements for the economic development set-aside fund.**23.7(1) Restrictions on applicants.**

a. Applicants shall apply only for direct loans or forgivable loans to make to private businesses for the creation of new jobs or the retention of existing jobs that would otherwise be lost. Eligible activities include infrastructure projects in direct support of economic development activities.

b. The maximum grant award for individual business assistance applications from any city or county is \$1,000,000.

c. For a project to be eligible for assistance, jobs created or retained shall meet the qualifying wage described in the annual action plan.

d. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

e. Projects must maintain a minimum ratio of one permanent job created or retained for every \$20,000 in CDBG funds awarded.

f. Terms of conventional loans proposed for the project must be consistent with terms generally accepted by conventional financial institutions.

g. Applications must provide evidence of adequate private equity.

h. Applications must provide evidence that the EDSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

i. The authority shall not consider applications proposing business relocation from within the state unless evidence exists of unusual circumstances that make the relocation necessary for the business' viability.

j. No significant negative land use or environmental impacts shall occur as a result of the project.

23.7(2) Application procedure. Application forms and instructions shall be available at iowagrants.gov. The authority shall accept EDSA applications at any time and shall review applications on a continuous basis. The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.7(3) Review criteria. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

a. Impact of the project on the community.

b. Appropriateness of the jobs to be created or retained by the proposed project.

c. Appropriateness of the proposed wage and benefit package available to employees in jobs created or retained by the proposed project.

d. Degree to which EDSA funding would be leveraged by private investment.

e. Degree of demonstrated business need.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.8(15) Requirements for the public facilities set-aside fund. PFSA funds are reserved for infrastructure projects in direct support of economic development activities that shall create or retain jobs.

23.8(1) Restrictions on applicants.

a. The maximum grant award for individual applications is \$500,000.

b. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

c. Projects must maintain a minimum ratio of one permanent job created or retained for every \$10,000 in CDBG funds awarded.

d. The applicant local government must contribute at least 50 percent of the total amount of funds requested.

e. Applications must provide evidence that the PFSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

f. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered to be new jobs created.

g. No significant negative land use or environmental impacts shall occur as a result of the project.

h. Applications shall include a business assessment plan, projecting for each identified business the number of jobs to be created or retained as a result of the public improvement proposed for assistance.

23.8(2) *Application procedure.* Application forms and instructions shall be available at iowagrants.gov. The authority shall accept PFSA applications at any time and shall review applications on a continuous basis. The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.8(3) *Review criteria.* The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a.* Impact of the project on the community.
- b.* Number of jobs created or retained per funds requested.
- c.* Degree to which PFSA funding would be leveraged by private investment.
- d.* Degree of demonstrated need for the assistance.

23.8(4) *Transfer of PFSA to EDSA.* On or after July 29, 2015, funding for public facility infrastructure projects will be available under the EDSA program described in rule 261—23.7(15).

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the unemployed and underemployed to obtain the training and services necessary to move into available higher-skill, higher-paying jobs.

23.9(1) *Restrictions on applicants.*

a. Applications for training projects shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained. Applications for employment-related transportation projects shall include evidence of local support for the project, including matching funds committed to the project.

b. The project length shall not exceed 24 months.

c. Applicants may use career link funds for training, apprenticeship programs, employment-related transportation and supportive services, and child care costs. Up to 5 percent of funds may be used for administration.

23.9(2) *Application procedure.* Application forms and instructions shall be available at iowagrants.gov. The authority shall accept career link applications at any time and shall review applications on a continuous basis until all program funds are obligated or the program is discontinued.

23.9(3) *Review criteria.* The authority shall review applications and make funding decisions based on criteria described in the annual action plan.

a. Review criteria for training projects typically include:

- (1) Quality of the jobs available and business participation.
- (2) Merit of the proposed training plan.
- (3) Degree to which career link funds are leveraged by other funding sources.
- (4) Merit of the recruitment/job matching plan.
- (5) Scope of project benefit relative to the amount of funds invested.

b. Review criteria for supportive services typically include:

- (1) Degree to which career link funds are leveraged by other funding sources.
- (2) Scope of project benefit relative to the amount of funds invested.
- (3) Magnitude of need for the project.

(4) Local support for the project.
[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.10(15) Requirements for the opportunities and threats fund. The opportunities and threats fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or for disaster recovery activities, or for communities developing a sustainable community demonstration project.

23.10(1) Application procedure. Those local governments applying for contingency funds shall submit a written request to the Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount of the request from the authority, projected use of funds and an explanation of the reason that the situation cannot be remedied through normal CDBG funding procedures.

23.10(2) Application review. Upon receipt of a request for opportunities and threats funding, the authority shall determine whether the project is eligible for funding and notify the applicant of its determination. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a. Projects to address a threat to health and safety.
 - (1) An immediate threat to health, safety or community welfare must exist that requires immediate action.
 - (2) The threat must be the result of unforeseeable and unavoidable circumstances or events.
 - (3) No known alternative project or action would be more feasible than the proposed project.
 - (4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.
- b. Projects to demonstrate sustainable community activities.
 - (1) The project is consistent with sustainability and smart growth principles.
 - (2) The project provides a beneficial impact on the standard of living and quality of life of proposed beneficiaries.
 - (3) The project can be ready to proceed and be completed in a timely manner.
 - (4) The project leverages the maximum amount of local funds possible.
 - (5) The project will continue to remain viable after CDBG assistance.
 - (6) The project meets the funding standards established by the funding criteria set forth in this rule.
 - (7) The applicant provides adequate information to the authority on total project design and costs as requested.
 - (8) The project is innovative and could be replicated in other communities.
 - (9) The project meets or exceeds the minimum building and site design criteria established by the authority.

23.10(3) Additional information. The authority may request additional information on forms prescribed by the authority prior to making a final funding decision. The authority may negotiate final project award and design components.

23.10(4) Future allocations. The authority may reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.11(15) Requirements for the housing fund program.

23.11(1) Housing fund application procedure. Each year, the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

- a. Application forms shall be available at iowagrants.gov.
- b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- (1) Level of need.
- (2) Level of impact.
- (3) Community involvement in other housing and community development activities.
- (4) Project readiness.
- (5) Local involvement in the project.

d. Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

23.11(2) *Applicability to housing fund on or after July 1, 2015.* For CDBG housing fund program awards made on or after July 1, 2015, the administrative rules in this chapter will apply. For CDBG housing fund program awards made before July 1, 2015, the administrative rules in 261—Chapter 25 will apply for contract administration and project closeout purposes.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.12(15) Interim financing program. Rescinded ARC 2038C, IAB 6/24/15, effective 7/29/15.

261—23.13(15) Flood recovery fund. Rescinded IAB 9/18/02, effective 10/23/02.

261—23.14(15) Disaster recovery fund. The disaster recovery fund is reserved for communities impacted by natural disasters when a supplemental disaster appropriation is made under the community development block grant program. Funds are available to repair damage and to prevent future threat to public health, safety or welfare that is directly related to the disaster for which HUD supplemental funds have been allocated to the state.

23.14(1) *Application procedure.* Communities in need of disaster recovery funds shall submit a written request to the Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the community's problem, the amount of funding requested, projected use of funds, the amount of local funds to be provided and the percent of low- and moderate-income persons benefiting from the project.

23.14(2) *Application review.* Upon receipt of a request, the authority, in consultation with appropriate federal, state and local agencies, shall make a determination of whether the community and project are eligible for funding and notify the applicant community of its determination. A project shall be considered eligible only if it meets all of the following criteria:

- a. A threat must exist to health, safety or community welfare that requires immediate action.
- b. The threat must be a result of a natural disaster receiving a presidential declaration for which the authority received a supplemental HUD appropriation.
- c. No known alternative project or action would be more feasible than the proposed project.
- d. Sufficient other local, state or federal funds (including the CDBG competitive program) either are not available or cannot be obtained in the time frame required.

23.14(3) *Compliance with federal and state regulation.* A community receiving funds under the disaster recovery fund shall comply with all laws, rules and regulations applicable to the CDBG competitive program, except those waived by HUD as a result of federal action in conjunction with the disaster recovery initiative and those not required by federal law that the authority may choose to waive. The authority shall make available a list of all applicable federal regulations and disaster-related waivers granted by Congress and relevant federal agencies to all applicants for assistance.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.15(15) Administration of a CDBG award. This rule applies to all grant recipients awarded funds from any of the CDBG programs. Recipients shall comply with requirements and instructions set forth in the applicable CDBG management guide.

23.15(1) *Contracts.* After making an award notification to a recipient, the authority will issue a CDBG contract. The contract shall be between the recipient local government and the authority. These rules and applicable federal and state laws and regulations shall be part of the contract.

a. Recipients shall execute and return the contract to the authority within 45 days of the transmittal date from the authority. Failure to do so may be cause for termination of the award.

b. Certain activities require permits or clearances that shall be obtained from other state or federal agencies prior to proceeding with the project. The authority may include securing necessary permits or clearances as conditions to the CDBG contract.

23.15(2) *General financial management standards.* Recipients shall comply with 24 CFR 85, as revised January 1, 2007, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. Allowable costs shall be determined in accordance with OMB Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

23.15(3) *Requests for funds.* Recipients shall submit requests for funds in the manner described and on the forms provided in the CDBG management guide. Individual requests for funds shall be made in whole dollar amounts not less than \$500, except for the final request for funds.

23.15(4) *Program income.* If a recipient receives program income before the contract end date, the program income must be expended before additional funds are requested. If a recipient receives program income on or after the contract end date, the recipient may reuse the program income according to an authority-approved reuse plan, or the recipient may return the program income to the authority. If a recipient receives less than \$35,000 of program income cumulative of all CDBG grants in a program year, the program income shall be considered miscellaneous revenue and may be used for any purpose.

23.15(5) *Record keeping and retention.* All records related to the project, including the original grant application, reports, financial records and documentation of compliance with state and federal requirements, shall be retained for five years after contract closeout. Representatives of HUD, the Inspector General, the General Accounting Office, the state auditor's office and the authority shall have access to all books, accounts, documents, records and other property belonging to or in use by recipients pertaining to the receipt of CDBG funds.

23.15(6) *Performance reports and reviews.* Recipients shall submit recipient performance reports to the authority as prescribed in the CDBG management guide. The authority shall perform project reviews and site inspections deemed necessary to ensure program compliance. When noncompliance is indicated, the authority may require remedial actions to be taken.

23.15(7) *Contract amendments.* Any substantive change to a funded CDBG project, including time extensions, budget revisions and significant alteration to proposed activities, shall be considered a contract amendment. The recipient shall request the amendment in writing. No amendment shall be valid until approved in writing by the authority.

23.15(8) *Contract closeout and audit.* Upon completion of project activities and contract expiration, the authority shall initiate closeout procedures. Contracts may be subject to audit before closeout of the contract can be completed. The audit shall be performed in a manner consistent with the provisions set forth in the Single Audit Act of 1996 and described in the CDBG management guide.

23.15(9) *Contractors and subrecipients limitation.* CDBG funds shall not be used directly or indirectly to employ, award contracts to, otherwise engage the services of or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status by HUD under the provisions of 24 CFR 24, as revised April 1, 1997.

23.15(10) *Compliance with federal and state laws and regulations.* Recipients shall comply with all applicable provisions of the Housing and Community Development Act of 1974 and these administrative rules. Recipients shall also comply with any provisions of the Iowa Code governing activities performed under this program.

23.15(11) *Noncompliance.* At any time before project closeout, the authority may, for cause, find that a recipient is not in compliance with requirements under this program. At the authority's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to the authority. Findings of noncompliance may include the use of CDBG funds for activities not described in the application, failure to complete approved activities in a timely manner, failure to comply with any applicable state or federal rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

23.15(12) Appeals process for findings of noncompliance. Appeals shall be entertained in instances where it is alleged that authority staff participated in a decision that was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the authority. Appeals shall be addressed to the division administrator of the community development division. Appeals shall be in writing and submitted to the authority within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director shall make the final decision on all appeals.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.16(15) Requirements for the downtown revitalization fund. Downtown revitalization funds are reserved for eligible CDBG activities that assist in the revitalization of downtown areas.

23.16(1) Maximum grant award. The maximum grant award for individual applications is \$500,000.

23.16(2) Application procedure. Application forms and instructions shall be available at iowagrants.gov.

23.16(3) Review criteria. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a. Impact of the project on the community.
- b. Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.
- c. Level of community support for a downtown revitalization effort.
- d. Degree to which downtown revitalization fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount of local financial support for the activity.
- e. Degree to which the activity meets or exceeds the minimum building and site design criteria established by the authority to be eligible for funding.
- f. Level of planning completed for comprehensive downtown revitalization efforts.

23.16(4) Notification of award. Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.17(15) Section 108 Loan Guarantee Program. The authority will apply to HUD's Section 108 Loan Guarantee Program to establish a section 108 program to assist with economic and community development projects in Iowa.

23.17(1) Eligible applicants.

- a. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by HUD, are eligible to apply for and receive funds under this program.
- b. Projects must meet a national objective as described in subrule 23.5(2).
- c. The minimum loan amount for a project will be \$500,000. The maximum loan amount for a project will be \$10 million.
- d. Applications must provide evidence of adequate private equity and ability to repay loan funds.
- e. Applicants must certify to meet all applicable federal requirements including those requirements in subrule 23.5(9).

23.17(2) Eligible activities. Projects under the program will fall into at least one of the following categories:

- a. Economic development resulting in substantial private investment and job creation/retention.
- b. Adaptive reuse of vacant or underutilized commercial or industrial buildings for residential purposes.
- c. Conversion of buildings to provide upper-story residential units.
- d. Rehabilitation of vacant single-family residential units or demolition of blighted, unoccupiable, vacant single-family residential units.

23.17(3) Application procedure. Application forms and instructions shall be available at iowagrants.gov. The authority shall accept section 108 applications at any time and shall review applications on a continuous basis as long as funding is available.

23.17(4) Review criteria and funding decision. The authority shall review applications based on criteria described in the annual action plan. All final funding decisions will be made by HUD.
[ARC 2038C, IAB 6/24/15, effective 7/29/15]

These rules are intended to implement Iowa Code section 15.108(1) “a.”

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[Filed ARC 2038C (Notice ARC 1890C, IAB 3/4/15), IAB 6/24/15, effective 7/29/15]

¹ See IAB Economic Development Department.

CHAPTER 173 STANDARD DEFINITIONS

[IAB 7/4/07, 261—Ch 173 renumbered as 261—Ch 199]

[Prior to 7/4/07, see 261—Ch 168, div V]

261—173.1(15) Applicability.

173.1(1) Current programs. Effective July 1, 2014, this chapter shall apply to the following programs and funding sources:

- a. Rescinded IAB 6/24/15, effective 7/29/15.
- b. EZ (enterprise zone) program (261—Chapter 59). Effective as of July 1, 2014, the EZ program was repealed. See 2014 Iowa Acts, House File 2448. The rules adopted in 261—Chapter 59 continue to apply to agreements entered into prior to that date. All amendments to this chapter made on or after July 1, 2014, shall not apply to agreements entered into under the EZ program prior to that date.
- c. HQJP (high quality jobs program) (261—Chapter 68).

173.1(2) Prior programs—transition provision. The programs listed in paragraphs “a” to “f” were repealed by 2009 Iowa Acts, Senate File 344, effective July 1, 2009. The rules in effect on June 30, 2009, under this chapter shall apply to the following prior programs until such time as the contracts for these prior programs are closed by the authority:

- a. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).
- b. CEBA (community economic betterment account) program (261—Chapter 53).
- c. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).
- d. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).
- e. PIAP (physical infrastructure assistance program) (261—Chapter 61).
- f. LCG (loan and credit guarantee) program (261—Chapter 69).

173.1(3) Grow Iowa values fund (IVF(2009))—transition provision. The grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012. The rules pertaining to the grow Iowa values fund and financial assistance program that were in effect upon the repeal of the program shall apply to all awards made and all contracts entered into under the program after July 1, 2009, and on or before June 30, 2012, and shall continue to apply until such time as all such contracts, including all amendments to such contracts, reach the end of their effective contract periods and are closed by the authority.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—173.2(15) Definitions. As used in these rules unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Award date*” means the date the board or the director approved an application for project completion assistance, other direct financial assistance, or tax incentives.

“*Base employment level*” means the number of full-time equivalent positions at a business, as established by the authority and a business using the business’s payroll records, as of the date a business applies for tax incentives or project completion assistance. The number of jobs the business has pledged to create and retain shall be in addition to the base employment level.

“*Benefits*” means nonwage compensation provided to an employee. Benefits include medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage. Benefits may include other nonwage compensation as determined by the board.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Brownfield site*” means the same as defined in Iowa Code section 15.291.

“*Business*” means a sole proprietorship, partnership, corporation, or other business entity organized for profit or not for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“Created job” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level at the time of application for tax incentives or project completion assistance.

“Director” means the director of the authority.

“Due diligence committee” or *“DDC”* means the due diligence committee organized by the board pursuant to 261—Chapter 1.

“Employee” means:

1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15).

2. A business’s leased or contract employee, provided all of the following elements are satisfied:

- The business receiving the tax incentives or project completion assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

- The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the authority as conditions of the award to the business.

- The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the authority, in form and content and at the frequency found acceptable to the authority, for purposes of verifying that the business’s job creation/retention and benefit requirements are being met.

- The contract between the third-party provider and the business specifically authorizes the authority, or its authorized representatives, to access records related to the funded project.

- The business receiving the tax incentives or project completion assistance agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

“Equity investment” means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity is limited to securities or interests acquired only for cash and does not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

“Equity-like assistance” means assistance provided in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. Equity-like assistance includes but is not limited to: royalty arrangements; success payments; warrant arrangements; or other similar forms of investments. Equity-like assistance does not include equity investments.

“Financial assistance” means assistance provided only from the funds, rights, and assets legally available to the authority. Financial assistance includes assistance provided in the form of grants, loans, forgivable loans, float loans, equity-like assistance, and royalty payments and other forms of assistance deemed appropriate by the board, consistent with Iowa law.

“Fiscal impact ratio” or *“FIR”* means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain project completion assistance and tax incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. “Fiscal impact ratio” does not include taxes received by political subdivisions.

“Full-time equivalent job” or *“full-time”* means the employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year including paid holidays, vacations, and other paid leave.

For purposes of this definition, “employment of one person” means the employment of one natural person and does not include “job sharing” or any other means of aggregation or combination of hours worked by more than one natural person.

“Grant” means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the contract with the authority for the project, repayment of funds is not required.

“Grayfield site” means the same as defined in Iowa Code section 15.291.

“Greenfield site” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“ICF” means the innovation and commercialization fund created in Iowa Code section 15.412.

“IVF(2009)” means the grow Iowa values fund and financial assistance program established by Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, and as repealed by 2011 Iowa Code Supplement section 15G.107. IVF(2009) does not include programs funded under the grow Iowa values fund prior to 2009. Rule 261—173.1(15) applies in determining which rules apply to which programs.

“Laborshed area” means the geographic area surrounding an employment center from which the employment center draws its commuting workers. The Iowa department of workforce development (IWD) determines the employment centers and defines the boundaries of each laborshed area. IWD defines laborshed areas by surveying commuters within the various zip codes surrounding an employment center, combining the zip codes into as many as three zones, and determining how many people commute from a zip code to the employment center from each zone. The zones reflect the fact that as the distance from an employment center increases, the number of people willing to commute to the employment center decreases. When determining the applicable laborshed wage, the authority will use the closest laborshed area, as determined by road distance between the employment center and the zip code of the project location.

“Laborshed wage” means the same as defined in Iowa Code section 15.327. The authority will calculate the laborshed wage as follows:

1. The most current covered wage and employment data available from IWD will be used.
2. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.
3. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.
4. The wages paid by employers in the following categories will be excluded from the calculation: government, retail trade, health care and social assistance, and accommodations and food service. The wages paid by employers in all other categories will be included in the calculation.
5. To the extent that a laborshed area includes zip codes from states other than Iowa, the wages paid by employers in those zip codes may be included if IWD has finalized a data-sharing agreement with the state in question and has received the required data.
6. Only those wages within two standard deviations from the mean wage will be included.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award. “Loan” includes deferred loans, forgivable loans, and float loans. A “deferred loan” is one for which the payment for principal, interest, or both, is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “float loan” means a short-term loan (not to exceed 30 months) made from obligated but unexpended moneys.

“Maintenance period” means the period of time between the project completion date and the maintenance period completion date.

“Maintenance period completion date” means the date on which the maintenance period ends. The specific date on which the maintenance period ends will be established by contract between the authority and the business. The maintenance period completion date will be a date on or after the project completion date and will be used to establish the period of time during which the project, the created jobs, and the retained jobs must be maintained. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project” means an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that will result in the accomplishment of the goals of the program.

“Project completion,” in the case of the EZ program and HQJP, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.

“Project completion date” means the date by which a recipient of incentives or assistance has agreed to meet all the terms and obligations contained in an agreement with the authority. The specific date on which the project completion period ends will be established by contract between the authority and the business. The project completion date will be a date on which the project must be completed, all incented jobs must be created or retained, and all other applicable requirements must be met. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the date financial assistance is awarded (the “award date”) and the project completion date.

“Project initiation” means, for all programs and funding sources except EDSA, any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

“Qualifying wage threshold” means the laborshed wage for an eligible business. The qualifying wage thresholds for the authority’s programs are described in 261—Chapter 174.

“Retained job” means a full-time equivalent permanent position in existence at the time an employer applies for financial assistance which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed. The authority may require a business to verify that a job is at risk. Such verification may include the signed statement of an officer of the business, documentation that the business is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

“Sufficient benefits” means that the employer applying for financial assistance offers to each full-time equivalent permanent position a benefits package that meets one of the following:

1. The employer pays 80 percent of the premium costs for a standard medical and dental plan for single employee coverage with a \$750 maximum deductible; or
2. The employer pays 50 percent of the premium costs for a standard medical and dental plan for employee family coverage with a \$1,500 maximum deductible; or
3. The employer provides medical coverage and pays the monetary equivalent of paragraph “1” or “2” above in supplemental employee benefits. Benefits counted toward monetary equivalent could include medical coverage, dental coverage, vision insurance, life insurance, pension, retirement (401k),

profit sharing, disability insurance, child care services, and other nonwage compensation approved by the board.

“Technology commercialization committee” means the committee organized by the board pursuant to 261—Chapter 1.

[**ARC 7970B**, IAB 7/15/09, effective 7/1/09; **ARC 8145B**, IAB 9/23/09, effective 10/28/09; **ARC 0442C**, IAB 11/14/12, effective 12/19/12; **ARC 1801C**, IAB 12/24/14, effective 1/28/15]

These rules are intended to implement Iowa Code chapters 15 and 17A and 2011 Iowa Code Supplement chapter 15G, subchapter I.

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CHAPTER 174
WAGE, BENEFIT, AND INVESTMENT REQUIREMENTS
[Prior to 7/4/07, see 261—Ch 168, div IV]

261—174.1(15) Applicability. This chapter is applicable to the programs identified in 261—173.1(15). [ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—174.2(15) Qualifying wage threshold calculations.

174.2(1) Annual updates. The authority will update the qualifying wage thresholds described in this chapter annually each fiscal year. The thresholds will take effect on July 1 of each fiscal year and remain in effect until the end of the fiscal year.

174.2(2) Applicability to applications. The qualifying wage threshold applicable to a project is the threshold in effect on the date the fully completed project application for the applicable program is received by the authority. If such an application is received but not acted upon by the board before the qualifying wage thresholds are updated, the thresholds in effect on the date the application was received will remain in effect for a period of three months notwithstanding that the thresholds are subsequently updated. The authority shall have sole discretion in determining whether an application is fully completed.

174.2(3) Phase-in of large increases. Notwithstanding the definition of laborshed wage in 261—Chapter 173, if the authority updates qualifying wage thresholds pursuant to subrule 174.2(1) and determines that, after calculation by IWD, the laborshed wage of a laborshed area would increase by more than one dollar per hour, the authority will limit the amount of that laborshed area's increase for that annual update to one dollar per hour. This subrule will be applied at each annual update pursuant to subrule 174.2(1) and will be applied by measuring the result of the calculation described in the definition of laborshed area against the most recent qualifying wage threshold published pursuant to subrule 174.2(1). Thus, this subrule will be applied in such a manner as to phase in the full amount of an earlier increase over more than one subsequent update. For example, if, at one annual update, a laborshed wage would increase by three dollars per hour over the current qualifying wage threshold, the authority will limit the amount of the increase in that first annual update to one dollar. But if, at the second annual update, the laborshed wage calculation performed pursuant to 261—Chapter 173 remains what it was at the time of the first annual update, then the authority will apply up to one additional dollar at the second annual update, and so on.

174.2(4) Effective date and applicability. The laborshed-based qualifying wage thresholds adopted in 2012 Iowa Acts, House File 2473, are effective beginning on July 1, 2012, and the authority will apply the provisions of this rule to all qualifying wage threshold calculations made or updated on or after that date.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—174.3(15) Qualifying wage threshold requirements—prior to July 1, 2009. 2009 Iowa Acts, Senate File 344, became effective on July 1, 2009. 2009 Iowa Acts, Senate File 344, repealed a number of programs administered by the department, established IVF(2009), and transferred moneys from prior programs to the IVF(2009). This resulted in a simplification of state financial assistance programs. The following subrules regarding qualifying wage thresholds apply to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

174.3(1) Qualifying wage threshold requirement—projects receiving IVF(FES) assistance. Awards funded during the time period beginning July 1, 2003, but before June 16, 2004, from IVF(FES) shall meet the wage requirements in effect at that time as reflected in the contract between the department and the business. Awards funded after June 16, 2004, using IVF(FES) moneys shall meet the qualifying wage thresholds for the programs through which funding is sought.

174.3(2) Qualifying wage threshold requirement—projects receiving IVF (2005) assistance. In order to receive financial assistance from the IVF (2005), applicants shall demonstrate that the annual wage,

including benefits, of project jobs is at least 130 percent of the average county wage. If an applicant is applying for IVF (2005) moneys, the department will first review the application to ensure that the IVF (2005) wage requirement is met. The department will then review the application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(3) *Qualifying wage threshold requirement—projects funded by program funds (“old money”).* Prior to July 1, 2003, direct financial assistance programs administered by the department were funded through state appropriations. After the creation of IVF(FES) and IVF (2005), these programs no longer received separate state appropriations. These programs were funded with IVF(FES) and IVF (2005) moneys. Moneys remaining, recaptured or repaid to these program funds remain available for awarding to projects. The department will review an application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(4) *Qualifying wage threshold requirement—projects receiving EDSA funds.* EDSA is the job creation component of the federal CDBG program. The department will review an application for compliance with the federal CDBG EDSA requirements.

174.3(5) *Qualifying wage thresholds, by funding source and by program.*

a. IVF (2005). Projects that are funded with IVF (2005) moneys through the following programs shall meet the qualifying wage threshold listed below:

Funding Source: IVF (2005)		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	130% of average county wage	Yes
	New business opportunities and new product development components	130% of average county wage	Yes
	Venture project component	130% of average county wage	Yes
	Modernization project component	130% of average county wage	Yes
VAAPFAP		130% of average county wage	Yes
PIAP		130% of average county wage, unless funded through special allocation of PIAP funds, up to \$5 million, established in subrule 61.5(12)	Yes
EVA		130% of average county wage	Yes

b. IVF(FES) and program funds. Projects that are funded with IVF(FES) through the following programs or directly from available program fund moneys shall meet the qualifying wage thresholds listed below:

Funding Source: IVF(FES) or Program Funds		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	New business opportunities and new product development components	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	Venture project component	100% of average county wage or average regional wage, whichever is lower	No
	Modernization project component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
VAAPFAP		No statutory requirement	Not applicable
PIAP		No statutory requirement	Not applicable
EVA		No statutory requirement	Not applicable

c. EDSA. Rescinded IAB 6/24/15, effective 7/29/15.

d. EZ and HQJC. Tax credit program projects shall meet the following wage thresholds:

Tax Credit Program	Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the wage threshold?
EZ	90% of average county wage or average regional wage, whichever is lower	No
HQJC	130% of average county wage More benefits are available if the wage rate is 160% or higher	Yes

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—174.4(15) IVF (2005) wage waivers; HQJC eligibility requirement waivers. Rescinded IAB 11/5/08, effective 10/16/08.

261—174.5(15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012.

174.5(1) Projects that are funded through one of the IVF(2009) financial assistance program components shall meet the following qualifying wage thresholds:

Funding Source: IVF(2009) Grow Iowa Values Financial Assistance Program		Qualifying Wage Threshold Requirement	Credit for sufficient benefits?
Program Component:	130% wage component	130% of county wage or regional wage, whichever is lower	Yes
	100% wage component	100% of county wage or regional wage, whichever is lower	No
	Entrepreneurial component	No qualifying wage threshold	Not applicable
	Infrastructure component	No qualifying wage threshold	Not applicable
	Value-added agriculture component	No qualifying wage threshold	Not applicable
	Disaster recovery component	No qualifying wage threshold	Not applicable

174.5(2) HQJP and EZ. Projects funded through the HQJP or EZ tax credit program shall meet the following qualifying wage thresholds:

Tax Credit Program	Qualifying Wage Threshold Requirement	Credit for sufficient benefits?
HQJP	130% of county wage or regional wage, whichever is lower	Yes
EZ	90% of county wage or regional wage, whichever is lower	No

174.5(3) EDSA. Rescinded IAB 6/24/15, effective 7/29/15.

174.5(4) Higher wage threshold applies if multiple programs are used in a project. Notwithstanding the qualifying wage threshold requirements for each program, if a business is a recipient of financial assistance from more than one program administered by the authority and the qualifying wage thresholds are not the same, the business shall be required to pay the higher qualifying wage for the project.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2014. 2014 Iowa Acts, House File 2448, (“the Act”) became effective on July 1, 2014. Among other things, the Act changed the qualifying wage thresholds applicable to HQJP and repealed the EZ program. As of July 1, 2014, the qualifying wage thresholds described in this rule shall be in effect.

174.6(1) Enterprise zone (EZ) program. The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage. The wage threshold described in this subrule continues to apply to agreements entered into before July 1, 2014. However, no new agreements may be entered into on or after July 1, 2014.

174.6(2) High quality jobs program (HQJP). The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage unless subrule 174.6(3) or 174.6(4) applies to a project.

174.6(3) HQJP projects in distressed areas.

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ranks among the bottom 33 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.

c. The authority will update the list of economically distressed areas according to the same schedule as the qualifying wage thresholds are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

174.6(4) HQJP projects at brownfield or grayfield sites.

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 90 percent of the laborshed wage if the eligible business is located

at a brownfield site. The qualifying wage threshold for a brownfield site may be lowered to 90 percent regardless of where the project site is located as long as the project meets the requirements of a brownfield site.

b. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located at a grayfield site. The qualifying wage threshold for a grayfield site may be lowered to 100 percent regardless of where the project site is located as long as the project meets the requirements of a grayfield site.

c. The authority may consult with the brownfield redevelopment advisory council established pursuant to Iowa Code section 15.294 in order to make a determination as to whether a project site meets the requirements of a brownfield site or grayfield site for purposes of this subrule. The determination as to whether a project site qualifies as a brownfield or grayfield site shall be within the discretion of the authority. In making such determinations, the authority will attempt to apply the same definition in substantially the same manner as similar definitions are applied by the brownfield redevelopment advisory council.

d. A project that does not meet the requirements of a brownfield site or grayfield site will be presumed to be a greenfield site.

174.6(5) *Economic development set aside (EDSA) program.* Rescinded IAB 6/24/15, effective 7/29/15.

[**ARC 0442C**, IAB 11/14/12, effective 12/19/12; **ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 2038C**, IAB 6/24/15, effective 7/29/15]

261—174.7(15) Job obligations. Jobs that will be created or retained as a result of a project's receiving state or federal financial assistance, project completion assistance, or tax incentives from the authority shall meet the qualifying wage threshold requirements. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business's job creation or job retention obligations contained in the contract between the authority and the business. A business's job obligations shall include the business's base employment level and the number of new jobs required to be created above the base employment level.

[**ARC 7970B**, IAB 7/15/09, effective 7/1/09; **ARC 8145B**, IAB 9/23/09, effective 10/28/09; **ARC 0442C**, IAB 11/14/12, effective 12/19/12]

261—174.8(15) Benefit requirements—prior to July 1, 2009. This rule regarding benefit requirements applies to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

Program	Benefit Requirement	Deductible Requirements	Is a monetary equivalent to benefits allowed?	Benefits Counted Toward Monetary Equivalent
EZ	80% medical and dental coverage, single coverage only OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care
HQJC	No benefit requirement (If, however, the company does not provide 80% medical and dental coverage for a single employee, the award will be reduced by 10%.)	\$750 maximum for single coverage/ \$1500 maximum for family coverage	No (Providing 80% medical and dental coverage for a single employee is one of eight qualifying criteria the company may use to qualify for the program. Monetary equivalent of other benefits is not considered.)	Not applicable
CEBA	80% medical and dental for single employees OR 50% medical and dental for family coverage OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care -Other documented benefits offered to all employees (i.e., uniforms, tuition reimbursement, etc.)
VAAPFAP	Not applicable	Not applicable	Not applicable	Not applicable
PIAP	Not applicable	Not applicable	Not applicable	Not applicable
EVA	Not applicable	Not applicable	Not applicable	Not applicable
TSBFAP	Not applicable	Not applicable	Not applicable	Not applicable

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—174.9(15) Sufficient benefits requirement—on or after July 1, 2009.

174.9(1) Requirement. To be eligible to receive state financial assistance, project completion assistance, or tax incentives, applicants shall offer sufficient benefits to each FTE permanent position. The term “sufficient benefits” is defined in rule 261—173.2(15). The board may consider alternative benefits packages or may adjust the requirement described in this rule to reflect the most current benefits package typically offered by employers.

174.9(2) Options. An employer meeting one of the following options will be found to meet the sufficient benefits requirement:

Option 1 80% Single Coverage	Option 2 50% Family Coverage	Option 3 Monetary Equivalent	
Pay 80% of premium costs for a standard medical and dental plan, single coverage. \$750 maximum deductible	Pay 50% of premium costs for a standard medical and dental plan, family coverage. \$1,500 maximum deductible	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits.	Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> • Medical coverage • Dental coverage • Vision insurance • Life insurance • Pension • 401(k) (company's average contribution) • Short-/long-term disability insurance • Child care services • Other nonwage compensation

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—174.10(15) Capital investment, qualifying investment for tax credit programs, and investment qualifying for tax credits.

174.10(1) *Capital investment.* The authority reports on the amount of capital investment involved with funded projects. This rule lists the categories of expenditures that are included when the authority determines the amount of capital investment associated with a project.

174.10(2) *Qualifying investment for tax credit programs.* For the tax credit programs (EZ and HJQP), there are statutorily required minimum investment thresholds that must be met for the project to be considered to receive an award. Not all expenditures count toward meeting the investment threshold. This rule identifies the categories of expenditures that can be included when the amount of investment is calculated for purposes of meeting program eligibility threshold requirements.

174.10(3) *Investment qualifying for tax credits.* Not all of the expenditures categories used to calculate the investment amount needed to meet program threshold requirements qualify for purposes of claiming the tax credits. The following table identifies the expenditures that do not qualify for tax credits.

	Capital Investment ¹	Qualifying Investment ²	Investment Qualifying for Tax Credits ³
Land acquisition	Yes	Yes	Yes
Site preparation	Yes	Yes	Yes
Building acquisition	Yes	Yes	Yes
Building construction	Yes	Yes	Yes
Building remodeling	Yes	Yes	Yes
Mfg. machinery & equip.	Yes	Yes	Yes
Other machinery & equip.	Yes	No	No
Racking, shelving, etc.	Yes	No	No
Computer hardware	Yes	Yes	Yes
Computer software	No	No	No
Furniture & fixtures	Yes	Yes	No

	Capital Investment ¹	Qualifying Investment ²	Investment Qualifying for Tax Credits ³
Working capital	No	No	No
Research & development	No	No	No
Job training	No	No	No
Capital or synthetic lease	No	Yes	Yes
Rail improvements ⁴	Yes	Yes	Yes
Public infrastructure ⁵	Yes	Yes	Yes

¹ “Capital investment” is used to calculate project investment on depreciable assets.

² “Qualifying investment” is used to determine eligibility for EZ and HQJC programs.

³ “Investment qualifying for tax credits” is used to calculate the maximum available tax credit award for a project.

⁴ “Rail improvements” includes hard construction costs for rail improvements. (These costs are included as part of construction or site preparation costs.)

⁵ “Public infrastructure” includes any publicly owned utility service such as water, sewer, storm sewer or roadway construction and improvements. (These costs are included as part of construction costs.)

[**ARC 7970B**, IAB 7/15/09, effective 7/1/09; **ARC 8145B**, IAB 9/23/09, effective 10/28/09; **ARC 0442C**, IAB 11/14/12, effective 12/19/12]

These rules are intended to implement Iowa Code chapters 15 and 15E and 2011 Iowa Code Supplement chapter 15G, subchapter I.

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[Filed ARC 2038C (Notice ARC 1890C, IAB 3/4/15), IAB 6/24/15, effective 7/29/15]

CHAPTER 11
IOWA MAIN STREET LOAN PROGRAM

265—11.1(16) Program description. This program is intended to provide financing to facilitate upper floor housing, infill development projects and commercial properties situated in the downtown area of communities participating in the Iowa main street program administered by the Iowa department of economic development pursuant to 261—Chapter 39. Loans will be made from a pool of funds legally available to the authority. Community development corporations, community-initiated development groups and owners or others having an interest in property in selected Iowa main street program communities may apply for such loans. Applications first reviewed and approved by the Iowa department of economic development main street program for project appropriateness shall be reviewed by the authority for underwriting purposes.

265—11.2(16) Waiver. The authority may by resolution waive or vary particular provisions of these rules in accordance with rule 265—1.11(16) or, after August 1, 2001, 265—Chapter 18.

265—11.3(16) Main street loan program. The purpose of the program is to assist in stimulating downtown economic development within the context of historic preservation and to establish a strong public/private partnership to revitalize downtowns and their communities by providing financing to facilitate upper floor housing, infill development projects and commercial properties situated in the downtown area of communities participating in the Iowa main street program.

265—11.4(16) Definitions. As used in connection with the Iowa main street loan program, the following terms have the meanings indicated.

“Applicant” means an eligible borrower that applies for an Iowa main street loan.

“Application” means those documents required by the participating lender and the authority, which shall include all of the information required by rule 265—2.8(16).

“Commercial property” means property formerly or currently used primarily for business, retail, governmental or professional purposes.

“Department” means the Iowa department of economic development.

“Downtown area” means the business area of a community that is centrally located within the community within the context of the Iowa main street program.

“Eligible borrower” means owners or others having an interest in property situated within the downtown area of a participating city, community development corporations associated with a participating city, Iowa main street program organizations associated with a participating city, community-initiated development groups associated with a participating city, or other organization associated with a participating city for purposes of implementing the Iowa main street program.

“Financing” includes loans, mortgages, and other financing arrangements to participants in the Iowa main street loan program to finance projects approved pursuant to rule 11.7(16).

“Housing” means housing as defined in Iowa Code section 16.1(14).

“Infill development” means new construction on a vacant commercial lot currently held as open space.

“Participating city” means a city participating in the Iowa main street program.

“Property” means property owned by the applicant or in which the applicant has an interest and for which the applicant proposes to expend the funds to be borrowed from the Iowa main street loan program.

“Time of application” means the date a participating lender receives an application from a participating community.

“Upper floor housing” means any housing that is attached to or contained in the same building as commercial property, whether located on the ground floor behind the traditional storefront or on other floors of the property.

[ARC 2046C, IAB 6/24/15, effective 7/29/15]

265—11.5(16) Application. Eligible borrowers for Iowa main street loans shall apply to the department in accordance with the procedures outlined in 265—Chapter 2.

265—11.6(16) Public benefit. Before approving an Iowa main street loan, the department and the authority must find that the proposed project will result in one or more of the following:

1. Rehabilitation of upper floor housing or commercial properties or new construction development on infill vacant lots located in the downtown area of a participating city;
2. Housing in downtown areas located in a participating city; or
3. Stimulation of downtown area economic development within the context of historic preservation of the downtown area in a participating city.

265—11.7(16) Loan criteria.

11.7(1) Evaluation by the department. The department shall evaluate each application for an Iowa main street loan to ensure that the following criteria are met:

- a. The property for which the applicant is applying for an Iowa main street loan is situated in the downtown area of a city participating in the Iowa main street program.
- b. Strong local community support is evidenced by local contributing effort including, but not limited to, contributions by the city or county, grants, tax abatement, local private contributions and investments, and establishment of community development corporations or community-initiated development groups.
- c. The loan proceeds will be used in a manner that will enhance the property in a manner that will stimulate downtown economic development within the context of historic preservation.
- d. The loan proceeds will be used in a manner that will enhance the property in a manner that will assist in establishing a strong public/private partnership to revitalize the downtown area of the community in which the property is situated.

11.7(2) Evaluation by the authority. Once approval for the loan is given by the department, the authority shall evaluate each application for an Iowa main street loan to ensure that the following criteria are met:

- a. The applicant shall show evidence that it is able to manage the property in a manner to show economic feasibility. This shall include an overall business management plan including, but not limited to, the following:

- (1) A generalized projection of revenues and expenditures for the three-year period beginning the month of anticipated loan closing;
- (2) Capital formation plans, if any;
- (3) To the extent possible, identification and analysis of risk;
- (4) Plans for record keeping, personnel and financial management;
- (5) Plans for marketing the rental of the property;
- (6) Appraisal of the property provided by the applicant.

- b. The applicant shall contribute a minimum of 10 percent of the overall project cost.

- c. There is reasonable assurance that the loan will be repaid. The authority may require any collateral, security or mortgage documents or other filings or protection, including without limitation personal or corporate guarantees, or both, as are reasonably necessary to insure security.

- d. The business's past earnings record and future prospects shall indicate an ability to repay the loan out of income from the property. The applicant shall provide financial statements and projections of future earnings prospects for the business as required by the authority and shall allow the authority reasonable access to its books and records.

11.7(3) Amount of loans. The principal amount of each loan shall not be less than \$50,000 and shall not exceed \$250,000.

11.7(4) Term of loan. Loans shall be amortized over not more than 30 years; the actual term of the loan shall be determined by the authority depending on the economic feasibility of the project.

11.7(5) Interest rate. Interest shall be charged on the loan at a rate related to the community investment program as determined and announced by the authority from time to time.

11.7(6) *Loan fee.* The applicant shall pay a fee in the amount of 1 percent of the initial loan amount. The loan fee shall be payable at closing.

These rules are intended to implement Iowa Code sections 16.1, 16.4, 16.4D, 16.5C, 16.19, and 16.51.

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